



# Exemptions, Deductions & Abatements

Department of Local Government Finance

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# Exemptions and Deductions

- **Exemption** = property is not taxable
  - Churches, Charitable Organizations, etc.
  - IC 6-1.1-10; IC 6-1.1-11
- **Deduction** = reduces the taxable assessed value of a property by a fixed dollar amount
  - Homestead, Mortgage, Over 65, Disabled Veteran, etc.
  - IC 6-1.1-12
- **Credit** = reduce the net tax bill by a designated percentage or prevent a tax bill from exceeding a certain percentage
  - Circuit Breaker, Over 65, LOIT Homestead



# Exemptions

- Application must be filed on or before May 15<sup>th</sup> of the assessment year with the county assessor.
  - May 15, 2012 for the 2012-pay 2013 property taxes
- Must be re-filed every even year unless:
  - The exempt property is owned, occupied and used for educational, literary, scientific, religious or charitable purposes
  - The property continues to meet the requirements of IC 6-1.1-10-16 or IC 6-1.1-10-21
  - An application was properly filed at least once in accordance with these statutes
- Exemption is valid after change in ownership if the property continues to meet the requirements under IC 6-1.1-10-16 , IC 6-1.1-10-21, or IC 6-1.1-10-24.



# Exemptions

## What if ownership changes or the property is used for a non-exempt purpose?

The person who obtained the exemption, or the current owner, must notify the county assessor in the year that the change occurs

- “Notice of Change of Ownership of Exempt Property” form: <https://forms.in.gov/Download.aspx?id=7564>
- Exemption Memo: [http://www.in.gov/dlgf/files/090720\\_Rushenberg Memo - HEA 1001\(ss\) Guidance - Exemptions.pdf](http://www.in.gov/dlgf/files/090720_Rushenberg_Memo_HEA_1001(ss)_Guidance_Exemptions.pdf)
- Exemption Guidance Clarification Memo: [http://www.in.gov/dlgf/files/090807- Rushenberg Memo - Exemption Guidance Clarification.pdf](http://www.in.gov/dlgf/files/090807-Rushenberg_Memo-Exemption_Guidance_Clarification.pdf)



# Exemptions

- The county assessor can suspend an exemption if the assessor discovers the title to the property has changed and the county assessor has not received an affidavit identifying the new owners.
- To suspend the exemption, the county assessor must notify the person entitled to the tax bill of the change in title that an affidavit is required.
- When an affidavit is presented, the county assessor must reinstate the exemption for each year that the property met or continues to meet the requirements.



# Exemptions

- In order to grant an application for an exemption, in whole or in part, the County PTABOA must find that the statutory prerequisites for an exemption have been met. If any of the statutory prerequisites have not been met, the exemption CANNOT BE GRANTED.
- If the application is denied in whole or in part, notice of that action will be given on Form 120.
- An applicant may appeal to the Indiana Board of Tax Review (IBTR) within thirty (30) days from the date the notice of rejection is given by the County PTABOA.
- Note: IC 6-1.1-11-7 (c) states the appeal must be filed within thirty days. The IBTR website states an appeal can be filed within forty-five (45) days of the notice of rejection.



# Exemptions

- Exemption may include real property, personal property, or both.
- Exemption amount may be 100%, or a certain percentage, depending on the circumstances.
- Taxpayer must submit evidence that the property qualifies for exemption under a SPECIFIC statute.
- Failure to provide documentation such as Articles of Incorporation, By-laws, and Income and Expense Statements, may result in the denial of the exemption sought.



# Exemptions

## Recent Developments:

- SEA 448 – 2009 added IC 6-1.1-10-44, exempting enterprise information technology equipment purchased after June 30, 2009, from property taxation, under certain conditions, if the county or municipality in which the equipment is located adopts a resolution and enters into an agreement to provide the exemption
- Guidance Memo: [http://www.in.gov/dlgf/files/090709 -  
Rushenberg Memo - SEA 448-  
2009 Guidance on exemption for enterprise information  
technology equipment.pdf](http://www.in.gov/dlgf/files/090709_Rushenberg_Memo_SEA_448-2009_Guidance_on_exemption_for_enterprise_information_technology_equipment.pdf)





# Exemptions

- Property owned by Ivy Tech Community College of Indiana (“Ivy Tech”) is tax exempt (see [http://www.in.gov/dlgf/files/100119 - Rushenberg Memo - Ivy Tech Community College Tax Exempt Status.pdf](http://www.in.gov/dlgf/files/100119_Rushenberg_Memo_-_Ivy_Tech_Community_College_Tax_Exempt_Status.pdf)).
- IN Code 21-22-2 establishes Ivy Tech Community College of Indiana as a state college.
- Per IN Code 6-1.1-10-2 and IN Code 6-1.1-11-9 (b), property owned by a state agency “is exempt from property taxation,” and shall not be assessed.



# Exemptions

- In August 2009, the DLGF disseminated a memo (see [http://www.in.gov/dlgf/files/090806 - Wood Memo - 2009 Exemption and July 24 Indiana Tax Court Ruling.pdf](http://www.in.gov/dlgf/files/090806_-_Wood_Memo_-_2009_Exemption_and_July_24_Indiana_Tax_Court_Ruling.pdf)) regarding the tax exemption decision by the Indiana Tax Court of Oaken Bucket Partners, LLC, and Heartland Church, Inc. in Hamilton County. On December 15, 2010, the Indiana Supreme Court overturned the Tax Court decision (see <http://www.in.gov/judiciary/opinions/pdf/12151001rdr.pdf>).



# Exemptions

- The Supreme Court held that although Oaken Bucket leased space to Heartland (church) for charitable and religious purposes, Oaken Bucket failed to demonstrate it owned the property for such purposes because Oaken Bucket did not possess an exempt purpose independent of Heartland's charitable and religious purposes.
- In the August 2009 memo, the Department indicated that the Tax Court decision could be referenced; however, the Supreme Court decision takes precedence, and should be referenced.



# Exemptions

- Below are key general holdings of the case that counties should take into consideration when reviewing property tax exemption applications filed by landlords who rent to religious or charitable organizations:
  - In order to qualify for an exemption, the landlord must demonstrate that its property is owned for exempt purposes, occupied for exempt purposes, and predominantly used for exempt purposes. When unity of ownership, occupancy, and use is lacking, both the landlord and tenant must demonstrate that they possess their own exempt purpose.



# Exemptions

- Charging below market rent for part of a building rented to a church or other religious or charitable organization is insufficient, standing alone, to justify a religious or charitable purpose property tax exemption.
- Although the fact that a landlord charges below market rent to a charitable or religious organization may demonstrate some indicia of the entity's beneficent motives, more is required to show the entity has its own exempt purpose.
- In essence, charging below market rent to an exempt entity, does not, without more, establish an exempt purpose on the part of the property owner.



# Exemptions

- Over the past several years, there has been a debate about whether nursing home facilities should be exempt from property taxes.
- On February 16, 2012, the Indiana Tax Court issued a decision involving the Tipton County Healthcare Foundation, Inc. f/k/a Tipton County Memorial Hospital Foundation versus the Tipton County Assessor (see <http://www.in.gov/judiciary/opinions/pdf/02161201mbw.pdf> ).



# Exemptions

- While the Tax Court ruling can be taken into consideration when reviewing a property tax exemption for a nursing home, each situation stands on its own merits (i.e., the applicant's situation may not be analogous to the recent ruling).



# Exemptions

- Some key general holdings of the case that counties should take into consideration when reviewing property tax exemptions filed by nursing homes:
  - The sole issue in this case was whether the Foundation failed to raise a prima facie case that its assisted living facility is entitled to a charitable purposes property tax exemption under Indiana Code § 6-1.1-10-16.
  - Indiana Code § 6-1.1-10-16 provides that “[a]ll or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.”





# Exemptions

- While unity of ownership, occupancy, and use is not required under Indiana Code § 6-1.1-10-16, when it is lacking, each entity must demonstrate that it has its own exempt purpose and explain the nexus between that purpose and its ownership, occupancy, and use of the property.
- It has long been held that exemption statutes are to be strictly construed against the taxpayer and, therefore, the burden is on the taxpayer to establish its right to an exemption.



# Exemptions

- To qualify for a charitable purposes exemption, a taxpayer must show “relief of human want . . . manifested by obviously charitable acts different from the everyday purposes and activities of man in general.” Indeed, “by meeting the needs of the aging, namely, relief of loneliness and boredom, decent housing that has safety and convenience and is adapted to their age, security, well-being, emotional stability, and attention to problems of health, a charitable purpose is accomplished.”



# Exemptions

- Nevertheless, neither the language of one case nor an apparent trend from several cases has established a per se rule that an assisted living facility that cares for the elderly is automatically considered exempt by the mere character of its deeds. Rather, every exemption case stands on its own facts and, therefore, they are not susceptible to bright-line tests or other abbreviated inquiries.



# Exemptions

- Indiana Code § 6-1.1-10-16 requires the showing of a charitable purpose, not simply the accomplishment of good and noble deeds, to ensure that: 1) the benefit conferred by the exemption relieves government of a cost it would otherwise bear, and 2) the exemption's largess does not primarily fulfill a commercial profit motive.
- Although an entity's for-profit status alone is not sufficient to show that a lease arrangement will result in private benefit, its status is germane.



# Exemptions

## Question:

Why are some properties automatically exempt from taxation, and why do some have to fill out Form 136?

## Answer:

Properties that are exempt by law, such as those owned by federal, state, or local units of government are exempt and do not have to file an Exemption Application. Other entities, that are exempt by filing (i.e. those that are owned, used, or occupied for educational, literary, scientific, religious or charitable purposes) must file and receive approval for their Exemption Application.



# Deductions for Real Property

- Application must be completed and dated by December 31 and filed on or before January 5 of the immediately succeeding calendar year.
  - Completed and dated by December 31, 2012 and filed on or before January 5, 2013 for 2012 pay 2013 property taxes
- Homestead Standard Deduction is always applied first, followed by Homestead Supplemental Deduction. Remaining deductions may be applied in any order.



# Deductions for Real Property - Homestead

- **What is the maximum deduction amount?**
  - The total amount of homestead standard deduction, which an individual may receive for a particular year, is the lesser of:
    - (1) sixty percent (60%) of the assessed value of the real property or mobile home; or
    - (2) forty-five thousand dollars (\$45,000).
- *Note: Under IC 6-1.1-12-40.5 and notwithstanding any other provision, the sum of the deductions provided to a mobile home may not exceed one-half (1/2) of the assessed value of the mobile home. (Therefore, if a mobile home is valued at \$50,000, the maximum amount of deductions the owner will receive on the mobile home is \$25,000. **The homestead supplemental deduction is the only deduction applied outside of this limitation.**)*



# Deductions for Real Property - Homestead

- **How can a person file for the deduction?**
  - In applying for the homestead standard deduction, the individual shall complete State Form 5473 or the homestead application portion of the Sales Disclosure Form (Part F).

*Note: The application or Sales Disclosure Form may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.*





# Deductions for Real Property - Homestead

- Beginning July 1, 2009, an individual who desires to claim the homestead standard deduction must provide the last five (5) digits of his Social Security number and the last five (5) digits of his driver's license number. If the applicant is married, the last (5) digits of the spouse's Social Security number and the last five (5) digits of the spouse's driver's license number also must be provided. If the applicant or the applicant's spouse (if any) do(es) not have a Social Security number, any of the following may be provided for that individual:



# Deductions for Real Property - Homestead

(1) The last five (5) digits of the individual's driver's license number.  
*(Note: In the event no Social Security number is available for the applicant or the spouse, the last five (5) digits of the driver's license number alone are sufficient identification.)*

(2) The last five (5) digits of the individual's state identification number.

(3) The last five (5) digits of a control number that is on a document issued to the individual by the federal government.



# Deductions for Real Property - Homestead

## ■ Limitations:

- The county auditor may not grant an individual or a married couple a homestead standard deduction if:
  - (1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and
  - (2) the applications claim the deduction for different property.
- Therefore, an individual or married couple cannot receive more than one (1) homestead standard deduction.



# Deductions for Real Property - Homestead

However, this limitation does not apply in the first year for which a homestead standard deduction is claimed if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on the assessment date and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application.

See <http://www.in.gov/dlgf/files/090708> - Stanley Memo -  
Homestead Deduction.pdf



# Deductions for Real Property - Homestead

## ■ What is a “homestead”?

*“Homestead” means an individual’s principal place of residence which:*

- is located in Indiana;
- that:
  - the individual owns;
  - the individual is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;
  - the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); *or*
  - is a residence owned by a trust and occupied by an individual as described in IC 6-1.1-12-17.9.



# Deductions for Real Property - Homestead

## ■ What is a “homestead”? (continued)

- If the property is owned by a corporation, partnership, limited liability company or other entity, the requirements of IC 6-1.1-12-37(k) must be met in order for the property to be considered a homestead.
- A homestead consists of a dwelling (including structures attached to the dwelling such as decks, patios and gazebos), one garage and the real estate (up to one [1] acre) that immediately surrounds that dwelling. IC 6-1.1-12-37.



# Deductions for Real Property - Homestead

## ■ What is a “dwelling”?

*“Dwelling” means any of the following:*

- Residential real property improvements, which an individual uses as his residence, including a house or garage;
- A mobile home that is not assessed as real property that an individual uses as the individual’s residence; **or**
- A manufactured home that is not assessed as real property that an individual uses as the individual’s residence. IC 6-1.1-12-37.



# Deductions for Real Property - Homestead

- Individuals and married couples are limited to one homestead standard deduction. As the receipt of this deduction becomes more beneficial, there is more incentive than ever for homestead fraud. Homestead fraud causes higher tax bills for all; therefore, House Enrolled Act (HEA) 1344-2009 requires taxpayers who receive the homestead standard deduction to verify that they are eligible to receive the benefit and to provide additional identifying information necessary to allow county government to better monitor homestead filings.





# Deductions for Real Property - Homestead

- Each individual (and his or her spouse, if any) claiming the homestead deduction is required to provide the last five digits of his or her social security number and driver's license number. This information has been used to populate a secure homestead database, which will be used by county auditors to track homesteads statewide and prevent fraud. This will help reduce taxes for all by ensuring that everyone shares equally in the property tax burden.
- This form—a.k.a. the “pink form” or “verification form”—was to be sent with tax bills in 2010, 2011, and 2012 and is to be completed at least once by January 1, 2013.



# Deductions for Real Property - Homestead

- What if a taxpayer has not returned the form by the deadline?

## **Under IC 6-1.1-12-17.8:**

The county auditor may, in his or her discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not timely and validly file the form, as determined by the auditor, before January 1, 2013. Before the county auditor terminates the deduction, he or she must mail notice of the proposed termination of the deduction to:



# Deductions for Real Property - Homestead

- (1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or
- (2) the last known address of the most recent owner shown in the transfer book.

If an auditor terminates a deduction because the taxpayer claiming the deduction did not timely and validly file the form before January 1, 2013, the auditor must reinstate the deduction if the taxpayer provides proof that he or she is eligible for the deduction and is not claiming the deduction for any other property.



# Deductions for Real Property - Homestead

- What the General Assembly did was implement a temporary homestead deduction verification program to flush out fraud or erroneously granted homestead deductions. The verification forms were intended to enable auditors to ensure that a person receiving a homestead deduction is entitled to it.
- This program was not necessarily intended to be punitive. This is why the General Assembly gave auditors *discretion* to remove a homestead deduction if a taxpayer did not return the form and mandated auditors to reinstate the deduction if a taxpayer could prove his or her eligibility. Certainly if someone is ineligible for the deduction, he or she should not be receiving it.



# Deductions for Real Property - Homestead

- Even though the program is ending January 1, 2013, this does not mean that auditors can no longer request information from taxpayers to ensure they are eligible.
- After January 2, 2013, when the pink form verification program ends, an auditor may still request information from a taxpayer to verify his or her eligibility for a homestead deduction. House Enrolled Act 1072-2012 amended the homestead deduction statute so that now:



# Deductions for Real Property - Homestead

A county auditor may require an individual to provide evidence proving that his or her residence is in fact his or her principal place of residence as claimed in the deduction application. The county auditor may limit the evidence that the individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. (Effective July 1, 2012)



# Deductions for Real Property - Homestead

- Effective July 1, 2012, the DLGF's corresponding administrative rule listing examples of proof a taxpayer may present has been voided. However, if an auditor has a legitimate question regarding an applicant's principal place of residence, the auditor may wish to request documents similar to those in the administrative rule for added security.



# Deductions for Real Property - Homestead

- What happens if a taxpayer does not fully complete the verification form?

The taxpayer's homestead deduction can be removed for assessment dates after January 15, 2012.

- Does this mean that if the taxpayer doesn't want to provide the last five digits of his or her social security number on the verification form, the deduction can be removed?

That's correct, but remember, if the taxpayer subsequently provides proof that he or she is eligible for the deduction, the auditor must reinstate it.





# Deductions for Real Property - Homestead

- Please note that HEA 1072-2012 amended the homestead deduction statute so that:

If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the PTABOA as provided in IC 6-1.1-15. The county auditor must inform the property owner of the owner's right to appeal to the PTABOA when the county auditor informs the property owner of the county auditor's determination. (Effective July 1, 2012)



# Deductions for Real Property

## Other Common Deductions:

- Supplemental Homestead (IC 6-1.1-12-37.5)
- Mortgage (IC 6-1.1-12-1; 2)
- Over 65 (IC 6-1.1-12-9)
- Blind or Disabled Persons (IC 6-1.1-12-11; 12)
- Disabled Veteran (IC 6-1.1-12-13; 14; 15)
- Veteran of WWI (IC 6-1.1-12-17.4)
- Surviving Spouse of Veteran (IC 6-1.1-12-16; 17)
- Rehabilitated Residential property (IC 6-1.1-12-18; 22)
- Solar energy heating or cooling system (IC 6-1.1-12-26; 27.1)
- Wind power device (IC 6-1.1-12-29)



# Deductions for Real Property

## Other Common Deductions continued:

- Hydroelectric power device (IC 6-1.1-12-33)
- Geothermal energy heating or cooling device (IC 6-1.1-12-34)
- Improvements made to comply with rules for storage of fertilizer or pesticides (IC 6-1.1-12-38)
  
- See also [http://www.in.gov/dlgf/files/100615-Stanley Memo - Geothermal Deduction.pdf](http://www.in.gov/dlgf/files/100615-Stanley_Memo_Geothermal_Deduction.pdf) and [http://www.in.gov/dlgf/files/100615-Stanley Memo - Solar Energy Deduction.pdf](http://www.in.gov/dlgf/files/100615-Stanley_Memo_Solar_Energy_Deduction.pdf)

\*\*\* Deductions are not Exemptions!!!!!!



# Deductions for Personal Property Mobile Homes

- Application must be filed during the 12 months before March 31 of the year the applicant wishes to receive the deduction.
  - Before March 31, 2013 for 2012-pay 2013 property taxes.
- Sum of all deductions provided may not exceed 50% of the assessed value of the home.
  - Only exception is the Homestead Supplemental Deduction
  - All **credits** may be applied outside of this limitation



# Deductions and Exemptions for Personal Property

## Common Deductions and Exemptions:

- Property abated in an Economic Revitalization Area (ERA) – Manufacturing Equipment, Research and Development Equipment, Logistical Distribution Equipment, or Information Technology Equipment (IC 6-1.1-12.1-4.5 [h])
- Enterprise Information Technology Equipment Exemption (IC 6-1.1-10-44 [c])
- Air or Water Pollution Control Facilities Exemption (IC 6-1.1-10-10)
- Enterprise Zone Investment Deduction (IC 6-1.1-45-10)
- Maritime Opportunity District Deduction (IC 6-1.1-40-11)



# Deductions and Exemptions for Personal Property

## Personal Property within a Certified Technology Park Deduction

- HEA 1086 – 2010 (IC 6-1.1-12.7) – effective July 1, 2010
- “Qualified personal property” is assessed for the first time after December 31, 2010 and is located in a certified technology park.
- It does not include personal property that is used primarily for routine administrative purposes such as office communications, accounting, record keeping, and human resources.

See <http://www.in.gov/dlgf/files/100406> - Bailey Memo -  
[Deduction Personal Property Tech Park.pdf](#)



# Other Exemptions and Deductions – Model Home

## Model Residence Deduction:

- HEA 1164 (P.L. 70-2008) – Indiana Code 6-1.1-12.6
- Generally, qualified owner of a model residence is entitled to a fifty percent (50%) deduction of the assessed value of a model residence.
- Effective for March 1, 2009 assessment date or a later year.
- Real property that consists of a single family residence, single family townhouse, or single family condominium unit that has never been occupied as a principal residence, and is used for display or demonstration to prospective buyers.



# Other Exemptions and Deductions – Model Home

- Does not include the land on which it is located.
- Owner's regular office space is not considered a model residence (sales office is considered part of the model residence).
- Available for no more than four (4) assessment dates:
  - One assessment as a partially completed structure.
  - One assessment as the initial fully completed structure.
  - Two assessment dates immediately succeeding the initial fully completed structure.
- If ownership changes, and use continues as a model residence, the new owner may claim the deduction. However, the assessment date limitations remain.





# Other Exemptions and Deductions – Model Home

- If the model residence is sold after the assessment date of that year, but before January 1 of the following year, to a person who does not continue to use the real property as a model residence, the deduction is terminated for that assessment date.
- The County Auditor must immediately notify the former owner, the property owner, and the assessing official of the termination, and remove the deduction.
- With the exception of members of an affiliated group, a property owner is entitled to no more than three (3) model residence deductions in Indiana for an assessment date.



# Other Exemptions and Deductions – Model Home

- A property owner must file an Application for Model Residence Deduction (State Form 53812 - available at <http://www.in.gov/dlgf>) with the County Auditor for each assessment date desired.
- The assessing official must verify the application.
- The County Auditor must make the deductions and notify the county Property Tax Assessment Board of Appeals (PTABOA) of all approved deductions.
- Limited to one deduction per model home per year (i.e. a property owner may not receive the model home deduction in conjunction with another deduction).
- [http://www.in.gov/dlgf/files/090528- Rushenberg Memo - Model Residence Deduction for the 2008 Assessment Date.pdf](http://www.in.gov/dlgf/files/090528-RushenbergMemo-ModelResidenceDeductionforthe2008AssessmentDate.pdf)



# Other Exemptions and Deductions – Residence in Inventory

- In June 2011, the Department issued guidance in regard to the residence in inventory (see [http://www.in.gov/dlgf/files/110602- Bailey Memo-  
Deduction for Residence in Inventory.pdf](http://www.in.gov/dlgf/files/110602-Bailey_Memo-Deduction_for_Residence_in_Inventory.pdf)).
- The deduction for residences in inventory was added to the Indiana Code (IC 6-1.1-12.8) by HEA 1046-2011, effective July 1, 2011.
- For purposes of the deduction, “residence in inventory” means real property that:
  - is not a model residence as defined in IC 6-1.1-12.6-1;
  - has never been occupied; and is a single family: residence, townhouse or condominium unit.



# Other Exemptions and Deductions – Residence in Inventory

- The term “residence in inventory” does not include any of the land on which the residence, townhouse, or condominium unit is located.
- The owner’s regular office space may not be considered a “residence in inventory.”
- An owner cannot lose the deduction simply by using a garage or other space in the real property to store or display promotional materials or as a space to meet with potential buyers.



# Other Exemptions and Deductions – Residence in Inventory

- The term “residential builder” means a person who, in the ordinary course of the person’s trade or business, builds single family residences, townhouses, or condominium units.
- In general, a residential builder that is the owner of a residence in inventory is entitled to a deduction in the amount of fifty percent (50%) of the assessed value of the residence in inventory.
- The deduction applies only to a residence in inventory that is first assessed as a partially or fully completed structure for the assessment date in 2012 or a later year.



# Other Exemptions and Deductions – Residence in Inventory

- A deduction for a residence in inventory does not apply, however, for a particular assessment date if the residence in inventory is leased for any purpose for any part of the calendar year in which the assessment date occurs.
- A property owner who qualifies for the deduction must file a statement (see <https://forms.in.gov/Download.aspx?id=10251>) with the county auditor.



# Other Exemptions and Deductions – Residence in Inventory

- The assessing official must verify each statement in the application. After the application has been verified, the county auditor must make the deductions and notify the county PTABOA of all approved deductions.
- The deduction is available on a particular Residence for a total of not more than four assessment dates as follows:
  - one assessment date for which the Residence is first assessed as a partially completed structure;
  - the assessment date for which the Residence is first assessed as a fully completed structure;
  - the two assessment dates that immediately succeed the assessment date in number 2 above.



# Other Exemptions and Deductions – Residence in Inventory

- Except for members of an affiliated group, a property owner is entitled to a deduction for an assessment date on not more than three (3) Residences in Indiana.
- The aggregate number of deductions claimed for a particular assessment date by the owners of a Residence who are part of an affiliated group may not exceed three (3) deductions.
- For purposes of the deduction, the term “affiliated group” has the meaning set forth in IC 6-1.1-12.6-1.





# Other Exemptions and Deductions – Residence in Inventory

- A property owner may not receive a deduction with respect to a Residence located in an allocation area as defined in IC 6-1.1-21.2-3. The term “allocation area” refers to an area that is established under the authority of any of the following statutes (IC 6-1.1-39; IC 8-22-3.5; IC 36-7-14; IC 36-7-14.5; IC 36-7-15.1; IC 36-7-30; IC 36-7-30.5) and in which tax increment revenues are collected.
- A property owner that qualifies for the Residence deduction and another deduction with respect to the same Residence may not receive a deduction under both statutes for the Residence for that year.



# Other Exemptions and Deductions – Residence in Inventory

- If the ownership of a Residence changes, and the new owner is a residential builder, the new owner may claim the deduction.
- The deduction; however, is limited to the assessment dates for which the prior owner qualified. In other words, the deduction assessment dates are those that would have applied had the ownership not changed. The new owner must, at the time of the filing of the sales disclosure form, inform the auditor of the transfer of ownership and of the new owner's eligibility for the deduction.



# Other Exemptions and Deductions – Residence in Inventory

- The deduction for the Residence for a particular assessment date is terminated if the residence in inventory is sold after the assessment date of that year but before January 1 of the following year to a person who does not continue to use the real property as a residence in inventory.
- In such case, the county auditor must immediately mail notice of the termination to the former owner, the property owner, and the township assessor or the county assessor if there is no township assessor. The county auditor must remove the deduction from the tax duplicate and must notify the county treasurer of the termination of the deduction.



# Credits

- **Circuit Breaker Cap Credit**
  - Per the recent IBTR ruling, to receive the 1% cap, a separate application is not required to be filed by the taxpayer for the credit.
- **LOIT Homestead Credit**
  - Taxpayer must apply for and be eligible to receive the homestead deductions. Separate application not required for credit.
- **Other LOIT Credits**
  - Automatically applied to eligible property. Separate application not required for credit.
- **Over 65 Circuit Breaker Credit**
  - Application required. Same deadlines as those for deductions.



# Credits

## ■ Recent Developments:

- The Indiana Board of Tax Review (“IBTR”) recently issued a final determination in an appeal involving the application of the circuit breaker (“tax cap”) to a taxpayer’s property who did not have the “homestead” (standard deduction) – see [http://www.in.gov/ibtr/files/Heaney\\_71-001-08-3-5-00001.pdf](http://www.in.gov/ibtr/files/Heaney_71-001-08-3-5-00001.pdf) .
- In their ruling, the IBTR stated, “A taxpayer, however, is not required to apply for the appropriate tax cap; instead, the statute requires the county auditor to identify eligible property, and then apply the credit.”



# Credits

- The IBTR further stated, “But a homestead under the tax cap statute is simply a homestead that is ‘eligible’ for the standard deduction, not a homestead that is the subject of an application for, or that has been granted the standard deduction.”
- The IBTR, therefore, found the taxpayer’s homesite and improvements met the definition of a homestead for purposes of applying the credit provided in IC 6-1.1-20.6-7(a)(1), and that the credit had to be applied in determining the tax bill. The Board did recognize that a county auditor has no way of knowing whether a taxpayer uses a given property for his or her principle residence unless the taxpayer affirmatively shows that fact, such as when the taxpayer applies for a standard deduction.



# Credits

- Therefore, based on the IBTR's ruling, property may receive the 1% tax cap if it is the owner's principal place of residence, even though the owner/taxpayer failed to file a homestead standard deduction application.
- Please disregard guidance issued by the Department of Local Government Finance (see [http://www.in.gov/dlgf/files/2010pay2011 Deductions and Credits Fact Sheet.pdf](http://www.in.gov/dlgf/files/2010pay2011%20Deductions%20and%20Credits%20Fact%20Sheet.pdf)) that stated that in order to receive the homestead tax cap (1% cap); the taxpayer would have had to apply for and received the homestead (standard) deduction.



# Abatements

- Indiana Code - IC 6-1.1-12.1

<http://www.in.gov/legislative/ic/code/title6/ar1.1/ch12.1.html>

- Indiana Administrative Code - 50 IAC 10

<http://www.in.gov/legislative/iac/T00500/A00100.PDF>

## Personal Property Abatement

- A property tax deduction from the assessed valuation granted by a designating body for the installation of qualifying abatable equipment in an ERA.





# Abatements

## Economic Revitalization Area (ERA)

- An area that is within the corporate limits of a city, town, or county that has become undesirable for, or impossible of, normal development and occupancy.
- It is a legal description for a piece of real estate.
- If ownership transfers, the designation transfers with the property. (IC 6-1.1-12.1-5.4)



# Abatements

## Designating body

- Also called a “governing body”
- For a county without a consolidated city, the designating body is the fiscal body of the city, town, or county.
- For a consolidated city, the designating body is the metropolitan redevelopment commission.
- IC 6-1.1-12.1-1(D)(7)



# Abatements

“Installed” defined (50 IAC 10-1-2):

- Section 2(a) “Installed” means that personal property:
  - (1) has been completely assembled;
  - (2) is completely functional for the purpose for which it was acquired; and
  - (3) is placed in service.
- Section 2(b):
  - When different pieces of personal property are linked together as part of an integrated production process, personal property will not be considered installed until the integrated production process is completely functional and is placed in service.



# Abatements

## Question:

So if the equipment is present at the facility and not installed, how is that situation handled?

## Answer:

50 IAC 4.2-6-1 classifies this equipment as “Construction In Process” (CIP) and assesses it at 10% of cost with no abatement deduction allowed on it. (In most cases, the abatement will begin the following year.)



# Abatements

A designating body can designate an ERA on its own or upon application of a property owner.

- If the designating body works on its own, no Statement of Benefits (SB-1/PP) is necessary for a preliminary designation; however, one will be required later when finalizing the details for a new business that desires to locate there.
- If the property owner asks for an ERA designation, a Form SB-1/PP must be filed.



# Abatements

## Statement of Benefits – Personal Property (Form SB-1/PP):

- The form on which the property owner submits information regarding the installation of new manufacturing, research and development, logistical distribution, or information technology equipment to the designating body.
- This form should be incorporated into the designation process.
- The Form SB-1/PP provides information on the proposed project and is an estimate of costs, jobs created, etc. This is done before the project begins.
- A taxpayer could have a single or multiple Form SB-1/PP's which could cover several projects over a number of years.



# Abatements

The reason why the Form SB-1/PP is so important is because the designating body must determine if the totality of the benefits (number of jobs, salaries, & other benefits) is sufficient to justify the deduction being requested.

The taxpayer must attach an approved copy of Form SB-1/PP to his personal property return.

- Page 1 is completed and signed by the taxpayer.
- Page 2 is completed and signed by the designating body. It sets the limits and guidelines for the abatement.



# Abatements

- It is important that the designating body complete the top section of page 2, as it can limit the time period of the ERA area, place dollar limits on cost / assessed value of the ERA eligible property.
- If this section is not completed then there is no limit on length of time to install equipment. Also, the dollar amount of additions can exceed the estimate on page 1.





# Abatements

## Resolution:

- According to IC 6-1.1-12.1-2.5, the resolution declares an area as an economic revitalization area.
- The resolution specifies the abatement schedule.
- The resolution could contain an expiration date when the designation ceases to exist or other limitations or conditions.



# Abatements

- If there is an expiration date of the ERA designation, it is simply the window of opportunity in which a company can install new abatable equipment and receive a deduction.
- This expiration date can easily be extended or renewed.



# Abatements

## Abatement Fee:

- Authority to impose a fee given to any designating body within the State of Indiana who has the power to grant an abatement.
- The fee amount is set by the designating body and the property owner.
- The fee is calculated by the county auditor and paid to the county treasurer.
- See IC 6-1.1-12.1-14



# Abatements

Unauthorized Facilities (IC 6-1.1-12.1-3 (e)):

The following facilities are not authorized to receive a deduction:

– Golf courses; country clubs; massage parlors; tennis clubs; skating facilities; handball/racquetball facilities; hot tub facilities; suntan facilities; racetracks; any facility that has a primary purpose of retail food & beverage, automobile sales & service, or other retail unless...an economic development target area is established. (IC 6-1.1-12.1-7)



# Abatements

- Residential facilities may not be approved unless it is multi-family of which at least 20% of the units are for low – moderate income individuals OR is in an economic development target area OR is designated as a residentially distressed area;
- Or a package liquor store.



# Abatements

## Self Assessment System:

- Taxpayer is responsible for filing the personal property assessment return (Form 103-Long) in a timely manner with the proper assessing official.
- Assessors do not have the authority to file a return for the taxpayer; however, the Assessor can assist the taxpayer.
- Taxpayer MUST sign the return.
- A person that desires to obtain the deduction must attach a certified deduction schedule (Form 103-ERA) with his/her timely filed personal property return (Form 103-Long) and file it with the proper assessing official.



# Abatements

## Compliance with Statement of Benefits (Form CF-1/PP):

- Form CF-1/PP must be filed with the designating body and the Assessor of the township where the equipment resides each year a personal property abatement deduction is requested.
- Must be filed between March 1 and May 15 or the approved extension date.
- Compliance information for multiple projects may be consolidated on one Form CF-1/PP with approval of the designating body.



# Abatements

- The taxpayer attaches an approved copy of Form CF-1/PP to his return.
  - Page 1 is signed by taxpayer.
  - Page 2 is completed by the designating body.(Is the taxpayer in compliance?)
- The major difference between the Form SB-1/PP and the Form CF-1/PP is that the SB-1/PP is an estimate of the project before it begins and the CF-1/PP is a summary of the actual information after the project has been completed.
- The Form SB-1/PP structures the deduction and the Form CF-1/PP approves the deduction.





# Abatements

## Timetable for Personal Property Review:

- The taxpayer files the tax return and supporting schedules by May 15 or the extended due date, if any.
- The township assessor has until September 15 or 4 months from the extended due date to review the tax return.
- The county assessor and the County Board of Appeals (PTABOA) has until October 30 or 5 months to review the return.
- Taxpayer has until November 15 or 6 months from the extended due date to amend the return. This has been extended to twelve (12) months for returns with a filing date after May 14, 2011 – (See IC 6-1.1-3-7.5)



# Abatements

For Abatement Deductions (IC 6-1.1-12.1-5.4 (e)):

- The assessing official may review the deduction schedule and has until the next February 28 to deny or alter.
- However, it is recommended to use the four and five month deadlines. Waiting until February 28 could cause problems with tax rates and shortfalls.
- If the assessing official fails to change an assessment within the time prescribed, the assessed value claimed by the taxpayer is Final. (IC 6-1.1-16-1)



# Abatements

Incomplete Filing:

**Question:**

What if the filing is not complete? For example, what if the Statement of Benefits is missing?

**Answer:**

The Assessor can send a request for information giving ten (10) days to provide it or the Assessor can deny the claim and send a Form 113/PP.



# Abatements

## Late Filing:

- IC 6-1.1-12.1-5.4 states the taxpayer must file a certified deduction schedule with a timely personal property return if they wish to receive an abatement.
- A return filed late which includes a Form 103-ERA should have the deduction denied immediately.



# Abatements

## Waiver of Noncompliance:

- Taxpayer can request a waiver of non-compliance through the designating body.
- If the designating body wishes to waive noncompliance, they shall conduct a public hearing and then may adopt a resolution.
- IC 6-1.1-12.1-11.3 covers:
- Failure to submit Form SB-1 to designating body before hearing.
- Failure to submit Form SB-1 to designating body before project begins.



# Abatements

- Failure to designate ERA zone before project begins.
- Failure to make the required findings of fact before designating the area.
- Failure to file a timely application.
- Failure to file a complete application.
- It does not give the designating body the authority to grant abatements on assets that don't qualify.



# Abatements

## Question:

If the taxpayer fails to claim an abatement for the first three years of the ten year abatement cycle, could we begin the first year of the abatement cycle in the equipment's fourth year?

## Answer:

No, the tax abatement cycle begins when the equipment is installed and ready for use. In this example, the taxpayer can claim the abatement in the fourth year of the ten year cycle or request a waiver of non-compliance from the designating body for the past unclaimed deductions.



# Abatements

- When a taxpayer fails to claim the abatement deduction on his timely filed return, he may request a Waiver of Non-Compliance hearing after he receives his tax bill.
- To grant the waiver could mean a shortfall to the local units of government; however, the designating body may feel that the taxpayer deserves the deduction.
- The facts for each situation will need to be reviewed and discussed by the designating body who have the option of getting legal advice from their attorney.
- Tax abatements are given locally and local control prevails when resolving these issues.





# Abatements

## Real Property Abatements:

While this presentation focused on personal property abatements, a great deal of the process discussed applies to real property abatements as well.

- The designating body will establish an ERA.
- The Form SB-1/Real Property, a resolution, & Form CF-1/Real Property will need to be completed.
- A deduction application will have to be filed in order to receive the deduction (Form 322/RE).



# Abatements

The main differences between the real property abatement process and the personal property process are:

- Self Assessment (PP) versus the Assessor generating the assessed value that the Auditor applies the deduction to (RP).
- Annual filing for the deduction by the taxpayer (PP) versus a single filing for the improvements for that assessment date (Real Property).
- The annual recalculation of the deduction is done by the taxpayer for personal property while the Assessor & the Auditor work together to calculate the deduction for real property. This can become quite complex with layers of abatements (multiyear projects built in phases) combined with annual adjustments and general reassessments.



# Questions

QUESTIONS ?????



# Contact The Department

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